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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

16 CR 747 (AKH)

5 ZIMMIAN TABB,

6 Conference

7 Defendant.

8 -----x

9 New York, N.Y.
10 February 3, 2017
11 11:45 a.m.

12 Before:

13 HON. ALVIN K. HELLERSTEIN,

14 District Judge

15 APPEARANCES

16 PREET BHARARA

United States Attorney for the
Southern District of New York

17 REBEKAH DONALESKI

DAVID DENTON

18 Assistant United States Attorneys

19 RICHARD E. SIGNORELLI

Attorney for Defendant

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(Case called)

MS. DONALESKI: Good morning, your Honor. Rebekah Donaleski and David Denton for the government.

THE COURT: Good morning.

MR. SIGNORELLI: Good morning, Judge. Richard Signorelli. And with me is my client, Zimmian Tabb.

THE COURT: Good morning, all.

Ms. Donaleski, what do we have today?

MS. DONALESKI: Your Honor, we're here as a status conference. The government would request that we set a motion schedule. We understand from defense that they may need more time. We have produced all of the discovery in our possession.

Just by way of background, the government has notified defense counsel that we are considering superseding. We're still developing that proof. Nonetheless, we've produced the discovery relevant to the charges that we would consider superseding with. So, in other words, we don't anticipate there would be much more discovery if we did supersede, and for that reason, we've communicated to the defense counsel that we should proceed forward with the motion that he knows he has in terms of a suppression motion. So that's where we are today.

THE COURT: What would be the nature of the supersession?

MS. DONALESKI: Your Honor, we're still considering a number of charges. Most relevant would be charges related to

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1 the maintenance of a drug premises, possibly considering some
2 weapons superseders; but, again, we're still developing our
3 proof as to those charges.

4 MR. SIGNORELLI : Judge, the problem I have with all
5 that is it creates almost a moving target as far as my pretrial
6 motions are concerned. And I understand the government as a
7 general proposition has the discretion and opportunity to
8 supersede, but I do believe there are limits with regard to
9 adding charges to a pending case.

10 What I would suggest is the following: That because
11 my pretrial motions should be omnibus, should be made all at
12 once so your Honor can consider them and also determine whether
13 a hearing should be held. So my proposal is to give the
14 government a reasonable, but not lengthy, period of time to
15 determine whether they're going to add charges to this
16 particular case, perhaps no more than three weeks, then at that
17 point I can inform the Court as to all the motions we want to
18 make, and I will make those motions pursuant to a schedule
19 proposed for your consideration.

20 I think that makes a lot of sense rather than have
21 these charges added at a much later part of this case, more
22 motions may have to be filed, and I think the piecemeal
23 approach is, frankly, not in my client's interest.

24 THE COURT: I recognize your issue and the difficulty
25 of planning how to proceed when you don't have knowledge of all

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1 that your client is exposed to; however, you made mention of a
2 possible suppression motion with regard to narcotics found in
3 the vehicle, I think.

4 MR. SIGNORELLI : That's correct, your Honor.

5 THE COURT: So that wouldn't change much in
6 relationship to other motions you might make. I'll take the
7 risk of having to do this piecemeal. I think you should go
8 ahead and make your motion.

9 MR. SIGNORELLI : I would propose the following
10 schedule.

11 THE COURT: The only way to shake up the government
12 this way is to set a trial date, Mr. Signorelli. And probably
13 after determining your motion, if you fail in the motion, I'll
14 set a trial date. If you win, the case is over, probably.

15 MR. SIGNORELLI : Your Honor, may I propose the
16 following schedule, then, for pretrial motions, which would be,
17 to be specific, a motion to suppress drugs found in the vehicle
18 and/or, if I feel it's appropriate, drug paraphernalia found in
19 a --

20 THE COURT: Whatever motions you want to make to the
21 existing indictment make.

22 MR. SIGNORELLI : I would propose --

23 THE COURT: And I want to have a certain date.

24 MR. SIGNORELLI : I would propose defense motions by
25 March 9, three weeks for the government and two weeks for a

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1 reply.

2 MS. DONALESKI: That's fine with the government, your
3 Honor.

4 THE COURT: Motions by March 9, opposition by
5 March 23, reply by March 30. I'll hear the motions March 6 --
6 April 6. Sorry.

7 MR. SIGNORELLI : Your Honor, I'm going to be away.

8 THE COURT: Let's go off the record. Let's get this
9 straight.

10 (Discussion off the record)

11 THE COURT: Just to repeat, all motions with regard to
12 the current indictment are to be made by March 9 or waived.
13 Oppositions are due by March 23. Reply is due by March 30.
14 The matter will be argued on April 4. I will decide at that
15 time whether or not an evidentiary hearing is required and then
16 set the course for further proceedings, likely there will be a
17 trial ordered in short notice after that. So if the government
18 wants to supersede, it should do so promptly.

19 MS. DONALESKI: Yes, your Honor.

20 THE COURT: Once a trial date is set, I'm not going to
21 be open to supersessions.

22 MS. DONALESKI: Understood, your Honor.

23 THE COURT: OK. That answers your problem too,
24 Mr. Signorelli.

25 MR. SIGNORELLI : Yes.

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1 THE COURT: All right.

2 MR. SIGMORELLI : Thank you, Judge.

3 THE COURT: Motion to exclude time?

4 MS. DONALESKI: Yes. The government moves to exclude
5 time between today's date and April 4 in order to allow the
6 defense to make any motions.

7 THE COURT: Without objection, so ordered.

8 MR. SIGMORELLI : No objection, your Honor.

9 THE COURT: So ordered. Thank you.

10 MS. DONALESKI: Thank you.

11 (Adjourned)

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